



An
Bord
Pleanála

Board Direction
BD-012509-23
ABP-310216-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/06/2023.

The Board decided to treat this case under section 139 of the Planning and Development Act, 2000. The Board also decided, based on the Reasons and Considerations set out below, that the planning authority be directed, as follows:

Condition No. 3

To **RETAIN** Condition No. 3 as follows for the reasons and considerations set out hereunder:

All the environmental and construction mitigation and monitoring measures, set out in the Environmental Impact Assessment Report and Natura Impact Statement, shall be implemented in full in accordance with the timelines set out, except as may otherwise be required in any Waste Licence issued by the Environmental Protection Agency in respect of the proposed development or as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and to mitigate the environmental effects of the proposed development.

Reasons and Considerations (1)

The proposed development will be subject to an EPA licence which will regulate emissions from the development. This condition is necessary to regulate the construction of the project and to ensure that the mitigation measures contained in the EIAR and NIS to protect the environment including biodiversity and protected

flora and fauna are implemented. The condition also acknowledges that the conditions of the EPA licence will take precedence over the planning condition with regard to specific emissions.

Condition No. 6(a)

To **AMEND** Condition No. 6(a) as follows for the reasons and considerations set out hereunder. Condition 6(b) and 6(c) shall be retained as is.

6(a): The Developer shall provide a closed loop wheel wash system to the satisfaction of the Planning Authority. Prior to the commencement of development, the developer shall prepare a plan for the written agreement of the Planning Authority which provides for the management of waste from the wheel wash system and which provides for the monitoring of same. The plan shall set out how the hazardous and non-hazardous waste shall be disposed of.

(b) A waste quarantine area shall be provided at the site.

(c) A weighbridge shall be provided at the site.

Reason: In the interest of clarity and public health and environmental sustainability.

Reasons and Considerations (2)

Emissions from the facility will be regulated through an EPA licence. In the absence of any conditions to regulate hazardous or contaminated material for the site, it is considered reasonable that the developer prepare a plan, which shall incorporate appropriate monitoring, for the removal of hazardous waste from the site in order to ensure proper disposal and to prevent contamination.

Condition No. 10

To **REMOVE** Condition No. 10 for the reasons and considerations set out hereunder:

Reasons and Considerations (3)

It is considered that Condition No. 10 is not reasonable or precise and would be a disproportionate requirement on the developer having regard to the wider use of the road. It is further considered that it would have been more appropriate for the

Planning Authority to attach a Section 48(2)(c) condition to be levied proportionally on developments using the L4016 but such a special contribution was not provided for by the Planning Authority in its decision.

Condition No. 12

To **RETAIN** Condition No. 12 as follows for the reasons and considerations set out hereunder:

Prior to use as a Material Recovery Facility, the Developer shall construct a new access route generally in accordance with drawings G1210-02 and G1210-04 received by the Planning Authority on 8th February 2021. The works shall include the following: HRA surfacing at the junction with the L4016; a wheel wash, oil interceptor, signage and shuttle light system.

Reason: In the interest of road safety.

Reasons and Considerations (4)

It is considered that Condition No. 12 is reasonable and does not require the developer to undertake any works that would be over and beyond what was proposed in the application documentation submitted.

Condition No. 13

To **AMEND** Condition No. 13 as follows for the reasons and considerations set out hereunder.

Prior to use as a Material Recovery Facility, the Developer shall carry out a Road Safety Assessment (RSA) Stage 3, by an independent accredited Road Safety Auditor, to examine the proposed new entrance. The Developer is requested to include agreed recommendations from the RSA in the amended constructed works for the new entrance with L4016.

Reason: In the interest of road safety.

Reasons and Considerations (5)

It is considered that, given the proposal to create a new entrance on the L4016 for the access and egress of HGV's associated with the development, the requirement to undertake a Stage 3 Road Safety Audit in respect of the new entrance with the L4016 is reasonable.

Note:

In deciding not to accept the Inspectors recommended amendment to the condition whereby it was recommended that the Developer implement the recommendations contained in the Stage 1 and Stage 1/2 Road Safety Audits dated May 2020 and January 2021 regarding the proposed access onto the L4016 and the internal access road, it was considered that the proposal comprises a new entrance onto the L4016 rather than the use of an existing entrance and therefore the requirement to undertake a Stage 3 RSA was considered reasonable.

Condition No. 18

To **AMEND** Condition No. 18 as follows for the reasons and considerations set out hereunder.

(a) The Developer shall provide adequate lighting at the entrance to the site from the L4016 which shall be agreed in writing with the Planning Authority. This lighting shall be designed to consider the safety of road users, nearby residents and the nature of the rural area. The lighting shall be agreed in writing with the Planning Authority and shall be fully commissioned prior to use of the facility.

(b) The Developer shall comply with the requirements of the Planning Authority in relation to any lighting which may be required within the site to facilitate operations.

Reason: In the interest of road safety and to protect the amenities of the area.

Reasons and Considerations (6)

It is considered that while the requirement for public lighting is limited, given the nature and scale of the development and its location in a rural setting and particularly having regard to the mitigation measures outlined in the EIAR and the NIS regarding protected species in the area, in the interests of road safety some lighting should be provided at the new junction to facilitate the satisfactory operation of the facility

outside of daylight hours. Lighting within and around the site shall be considered within the context of the mitigation measures outlined in the EIAR and NIS regarding protected species within the area.

Condition No. 20

To **RETAIN** Condition No. 20 as follows for the reasons and considerations set out hereunder:

The Applicant/Developer to pay to Kildare County Council the sum of €202,500.00 being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on the 19th December 2022 in accordance with Section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in accordance with Section 13 of Development Contribution Scheme adopted by Kildare County Council on the 19th December 2022.

Note: Please note water and wastewater development contribution charges now form part of the water connection agreement, if applicable, with Irish Water.

Reason: It is considered reasonable that the developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.

Reasons and Considerations (7)

It is considered that the terms of the Kildare County Council Development Contribution Scheme 2023-2029, which is the Scheme currently in force, have been properly applied with regard to Sections 8.2.3 and 13 of the Scheme which relate to the level of contributions applicable to the scheme and to the payment of contributions under the Scheme.

Board Member:


Una Crosse

Date: 23/06/2023

